

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

JOHN ANTHONY GENTRY,

Plaintiff,

vs.

**THE STATE OF TENNESSEE; PAMELA
ANDERSON TAYLOR; BRENTON
HALL LANKFORD; SARAH RICHTER
PERKY; UNNAMED LIABILITY
INSURANCE CARRIER(S); et al.**

Defendants.

**NO. 3:17-cv-0020
JURY TRIAL DEMANDED**

**DEFENDANT, SARAH RICHTER PERKY’S MOTION TO DISMISS PLAINTIFF’S
AMENDED CLAIM FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF
MAY BE GRANTED**

Comes now your Defendant, Sarah Richter Perky (“Defendant”) and pursuant to Rule 9(b), Rule 12(b)(1) and Rule 12(b)(6), Fed. R. Civ. P. respectfully moves the Court to dismiss the complaint for failure to state a claim for which relief may be granted. Lacking a federal claim, Defendants also move the Court to dismiss the complaint for lack of federal subject matter jurisdiction. In addition, Plaintiff’s complaint and amended pleadings refers to numerous documents purportedly forming a basis for Plaintiff’s claim. Plaintiff has submitted numerous documents with his Second Amended Complaint (*See e.g.* Docket Entry 36). However, Plaintiffs’ complaint fails to attach several documents to the complaint and amended pleadings concerning his claim against Defendant for the Court’s own review. All of these matters are subject to judicial notice, and are part of Plaintiff’s claims against Defendant. In accordance with

Rule 12(b)(6), Defendant attaches the following documents referred to by Plaintiff in his pleadings:¹

1. Copy of executed Order dated June 15, 2015² Allowing Sarah Richter Perky to Withdraw As Counsel, Exhibit 1;
2. Copy of Transcript from Hearing on March 10, 2015, Exhibit 2; and,
3. Copy of executed Memorandum and Order dated July 14, 2016, Exhibit 3.

Defendant also submits a legal memorandum in support of her Motion to Dismiss, the terms of which are incorporated with this Motion by reference.

Wherefore, these premises considered, Defendant requests that the Court dismiss Plaintiff's Complaint, including the First and Second Amended Complaints, for failure to state a claim for which relief may be granted and grant Defendant such other relief as may be just equitable and proper.

¹ Matters attached to a Motion to Dismiss are considered a part of the pleadings if they are referred to in the Complaint and are part of Plaintiffs' claim. See e.g. Weiner v. Klais & Co., 108 F.3d 8b, 89 (6th Cir. 1997); see too In re Bridgestone Securities Litigation, 430 F.Supp. 2d 728 (M.D. Tenn. 2006).

Respectfully submitted,

/s/ William S. Walton

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Attorneys for Defendant, Sarah Richter Perky

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via ECF on the date of filing *or* by U.S. Mail, postage prepaid, on 17 April 2017:

John A. Gentry, CPA, *pro se (regular mail)*
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